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STATUTORY INSTRUMENTS

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**1987 No. 382**

**The Advice and Assistance (Scotland) Regulations 1987**

**Payment of fees and outlays from property recovered or preserved**

**15.**—(1) The right to prior payment of fees or outlays out of any property recovered or preserved which is created by section 12(3)(c) of the Act shall not apply—

- (a) to any money paid—
  - (i) under a decree following on an action for aliment within the meaning of the Family Law (Scotland) Act 1985(1);
  - (ii) under an order for the payment of a periodical allowance under section 5 of the Divorce (Scotland) Act 1976(2), or for the making of a periodical allowance under section 8 of the Family Law (Scotland) Act 1985;
  - (iii) under any order for the periodical payment of sums for the maintenance of any person which, by virtue of the Maintenance Orders Act 1950(3), the Maintenance Orders (Reciprocal Enforcement) Act 1972(4) or the Civil Jurisdiction and Judgments Act 1982(5), may be enforced in Scotland;
  - (iv) under an order made by the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975(6) or under any settlement arrived at to prevent or bring to an end proceedings in which such an order may be made;
  - (v) by way of supplementary benefit under the Supplementary Benefits Act 1976(7) or family income supplement under the Family Income Supplements Act 1970(8);
  - (vi) by way of aliment or periodical allowance by virtue of any settlement arrived at to prevent or bring to an end proceedings in which such a decree or order as is mentioned in sub-paragraphs (i) to (iii) above may be granted;
- (b) to the first £2,500 of any money, or of the value of any property, recovered or preserved by virtue of—
  - (i) an order for the payment of a capital sum under section 5 of the Divorce (Scotland) Act 1976;
  - (ii) an order for payment of a capital sum or transfer of property, or an incidental order, under section 8 of the Family Law (Scotland) Act 1985;
  - (iii) any settlement arrived at to prevent or bring to an end proceedings in which such an order may be granted.

(2) Where in the opinion of the solicitor the payment of his fees or outlays in priority to all other debts out of any such property as is mentioned in section 12(3)(c) of the Act—

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(1) 1985 c. 37.  
(2) 1976 c. 39.  
(3) 1950 c. 37.  
(4) 1972 c. 18.  
(5) 1982 c. 27.  
(6) 1975 c. 71.  
(7) 1976 c. 71.  
(8) 1970 c. 55.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) would cause grave hardship or distress to the client; or
  - (b) could only be effected with unreasonable difficulty because of the nature of the property;
- the solicitor may apply to the Board for authority not to enforce, either wholly or partly, such payment and, if the Board so authorises, any deficiency in the solicitor's charges or fees shall be calculated as if, to the extent so authorised by the Board, section 12(3)(c) of the Act did not apply to that property.